

Professionalism Commission Minutes, March 29, 2006

Norman Smith, acting as Chair on behalf of Judge Battaglia, called the meeting to order at 3:00 p.m. Absentees included: David Densford, Bob Greenleaf, Felecia Greer, William Hudson, Michael O'Connor, Dan Saunders, Daryl Walters, and Byron Warnken.

Mr. Smith brought the meeting to order and briefed the commission members on Judge Battaglia's plans and requirements for the final report. Judge Battaglia plans on presenting the final report of the Commission to the Court of Appeals on May 31, 2006. The report must be in final form by the May 10th meeting of the Commission; therefore, the May 10th meeting is mandatory for all commission members. Additionally, commission members must bring with them to the May 10th meeting a list of tentative dates for the presentation of the final report to their respective jurisdictions. A suggestion was made to post the final report on the internet when it is complete. The minutes from the February 15, 2006 meeting were then approved.

Karen Federman-Henry presented the final report of the Subcommittee on Development of a Professionalism Course for Lawyers who Exhibit Unprofessional Behavior. Ms. Henry presented the Subcommittee's redirected focus on a counseling program instead of a professionalism course. The Committee used three jurisdictions as a model: New Jersey, Georgia and North Carolina, each of which emphasize education and mentoring and not discipline. Since the Subcommittee's recommendations are silent on the possibility, the Commission asked what would be the result if an attorney whose conduct is not serious enough to warrant referral to the AGC but "chronically offensive" declines to participate? First, if judges are involved as part of the intervention process, counseling is more likely to be taken seriously. Second, the Subcommittee should confer with Dan Saunders' Subcommittee in order to change the recommended amendment to the judicial cannon to allow for referrals to counseling. Third, the referral process (how long, depending on the nature of the problem) and intervention process (phone call; meeting with judge and attorney; meeting with a panel or committee selected by the local bar) needs to be defined. With these three items noted, the Commission voted to approve the Subcommittee Report.

Judge Salmon presented the Final Report of the Subcommittee on Mentoring. Those who are interesting in being mentored will sign up for the program while taking the Professionalism Course for new admittees. The mentoring agreement is to meet two times a year. The Committee adopted the recommendation that those who serve as mentors will get credit towards pro bono hours. The Commission asked if the law student mentoring program with judges could be made available to second year students as well as third year. The Subcommittee will check with the law schools on this point. The Commission voted to approve the Subcommittee Report subject to further investigation as to whether to expand the program to include second year students.

The Commission then reviewed the Draft Order Regarding the Future of the Commission. The following suggestions were made as to possible sources of funding:

1) attorney appearance fees could be a source of revenue from the counties; 2) tack on a fee to the Client Security Trust Fund; 3) seek funding from the Administrative Office of the Courts; 4) Grant funding -- possibly from the American Bar Association; 3) establish a Budgetary Subcommittee to determine funds needed to continue the Commission, i.e. administrative support, equipment, supplies, etc. The Commission agreed to bring additional suggestions to the May 10th meeting. With that, the Commission voted to approve the Draft Administrative Order with #6, Source of Funding, deferred for further discussion.

The Commission reviewed the Process Reports of the Subcommittee Chairs. The Chairs that had completed their process synopses had not had time to discuss it with their respective committees. Additionally, most of the commission had not had time to review thoroughly every process synopsis sent out via email. Therefore, several determinations were made, subject to Judge Battaglia's review and approval: 1) Each commission member needs to read the process synopses and email their thoughts and comments for revision to the Committee Chair no later than April 21. 2) The Subcommittees will then meet between April 21st and April 28th to finalize their process synopses. 3) The Subcommittee Chairs will then get their finalized process synopses to Judge Battaglia by May 3rd so that any changes can be made between the 4th and the 5th of May and sent back to the Chairs. Other questions noted: How is the final report going to be distributed to the field (how many; to whom; at what cost)? Should there be a standard format for the synopsis? Will the interim reports be made a part of the final report?

The Commission reviewed the draft Executive Summary for the final report. The final recommendations of each subcommittee will be placed at end of the Executive Summary. The point was made that the Administrative Order that was just approved may need to be modified to reflect the recommendations set forth in the Executive Summary when it is completed. Also discussed was the issue of tentative dates for presentation of the final report to the respective jurisdictions. Several recommendations were made subject to Judge Battaglia's review and approval: 1) that Judge Battaglia assign a time frame from September - November for presentations to each jurisdiction 2) to combine jurisdictions at a central location; i.e. Garrett & Allegany; Washington & Frederick, etc. 3) That Judge Bell mandate that every judge from the represented jurisdiction needs to attend the presentation; otherwise, without the presence of the judges, attendance will be poor. Discussion of this issue was tabled for further review.

Mr. Smith adjourned the meeting at 5:00 p.m so the subcommittees could go into individual meetings at table to discuss their Process Synopsis. The next meeting will be held on May 10, 2006 at 3:00 p.m. This meeting is mandatory.

Laura M. Glasgow, Acting Reporter
on behalf of Norman Smith